

VZCZCXYZ0000
PP RUEHWEB

DE RUEHUNV #0301/01 1751455
ZNR UUUUU ZZH
P 241455Z JUN 09
FM USMISSION UNVIE VIENNA
TO RUEHC/SECSTATE WASHDC PRIORITY 9726
RHMCSUU/DEPT OF ENERGY WASHINGTON DC PRIORITY
RUEANFA/NRC WASHDC PRIORITY
INFO RUEHII/VIENNA IAEA POSTS COLLECTIVE PRIORITY
RUEHTA/AMEMBASSY ASTANA 0167
RUEHUL/AMEMBASSY SEOUL 0385
RUEHNY/AMEMBASSY OSLO 0183
RUEHAM/AMEMBASSY AMMAN 0097
RUEHVI/AMEMBASSY VIENNA 1434
RUEHSM/AMEMBASSY STOCKHOLM 0249
RUEHNE/AMEMBASSY NEW DELHI 0330

UNCLAS UNVIE VIENNA 000301

SENSITIVE
SIPDIS

STATE FOR T, IO/T, ISN/NESS, ISN/MNSA
DOE FOR NA-243-GOOREVICH;
NRC FOR JSCHWARTZMAN, MDOANE

E.O. 12958: N/A
TAGS: [AORC](#) [KNNP](#) [IAEA](#) [ENRG](#) [TRGY](#) [RU](#) [IN](#) [GR](#)
SUBJECT: IAEA JUNE BOARD: MOVES FUEL BANKS FORWARD

SUMMARY

11. (SBU) In its debut as formal item on the IAEA Board of Governors agenda, the issue of nuclear fuel assurances concluded with the IAEA Secretariat empowered to continue developing select proposals and with the way cleared for continued Board discussions and eventual Board action. For the first time, the G-77 statement went beyond rhetoric to raise specific concerns that need to be addressed and specific changes it thought should be made in the proposals. A number of G-77 countries expressed interest in the concept of fuel assurances - and more would have done so if necessary to preserve the topic for future agendas. While the Board did not take the recommended decisions on either the Director General's proposal for an IAEA Fuel Bank or the proposal for a Russian Fuel Reserve, the Chair's Conclusion provided a clear mandate for work and consultations to continue in order to articulate views and to address and allay concerns. Despite repeated UNVIE and Russian discussions with the Indian Mission regarding their eligibility concerns, the Indian Ambassador played a particularly unhelpful role in the debate. And while some press fell for Iran's immediate spin (a defeat for the West at the hands of the G-77), U.S. delegation believes time will show that the outcome at this Board laid the groundwork for long-term success on fuel assurances.

12. (SBU) Mission intends to approach the Secretariat to discuss the best format for follow-up discussions between potential recipients, supplier states and the Secretariat. Mission will push for Secretariat leadership on the issue in hopes of keeping momentum generated by the June Board discussions and the Board Chair's intention to sustain a dialog. Mission will continue to seek opportunities to galvanize support for discussion and further development of concepts in the run-up to the September Board. However, not all are happy with the Board debate. A subsequent conversation with the German Charge Guido Kemerling revealed extreme German unhappiness with the debate. Kemerling said the German Perm Mission reported to Berlin that assured supply is dead for at least a year. This assessment also reflects the views of the German Perm Rep who said he was deeply unhappy with how the board chair characterized (and downplayed in his view) the German Multilateral Enrichment Sanctuary Project (MESP) paper.

PROPOSALS

13. (U) The Board had for its consideration three proposals. The first was a "Proposal for the Establishment of an IAEA Low Enriched Uranium (LEU) Bank" arising from the Nuclear Threat Initiative (NTI) challenge grant of USD 50 million. The Board was asked to take note of the report on the proposal and to request the Director General to bring for its consideration a detailed proposal for the establishment of an IAEA LEU fuel bank for assurance of supply. The second was a "Russian Federation Initiative to Establish a Reserve of Low Enriched Uranium (LEU) for the Supply of LEU to the IAEA for its Member States." The Board was asked to take note of the Russian proposal and request the Director General to bring for its consideration the draft of an agreement that could be concluded between the Russian Federation and the IAEA for the supply of LEU to the IAEA and of a model agreement that could be concluded between the IAEA and a Member State. The third was a proposal by Germany for "Establishing an Independent Access to Nuclear Fuel Supply Services: The Multilateral Enrichment Sanctuary Project (MESP). The Board was asked to take note of the proposal.

PRE-BOARD CHATTER

14. (SBU) A considerable amount of uncertainty accompanied the discussions in the margins prior to Board debate. Statements of support from various G-77 countries made in capitals in response to Washington's demarches seemed to be melting away under pressure from G-77 hardliners (thought to include Argentina, Brazil, Cuba, Egypt and India). Earlier assurances from G-77 leaders that their statement would not block progress seemed to be coming unglued. There was considerable uncertainty about just what the G-77 would say, even among G-77 members. And overlaid on all this was the uncertainty about whether or not the U.S., Germany and Russia would issue a Joint Statement, particularly in view of the Mission recommendation that it would be counterproductive to our desire to get the Board to focus on the two concrete fuel bank proposals.

15. (SBU) Confusion and concern ebbed somewhat after a meeting with the Board chair on Tuesday in which she revealed her intention to pursue a conclusion modeled after the one from the March Board - no decision but continue work - and the Secretariat indicated that it could accept such a decision as a mandate for continued efforts. When a draft of the G-77 statement surfaced, it became clear that in addition to a repeat of earlier rhetoric there was a substantial amount of substantive comment, indicating that the G-77 was now willing to engage in a debate on the issues and not just put off a decision. And following Russian reluctance to participate, the idea of a three party statement dissolved. G-77 Ambassadors urged us to capitalize on the opportunity their statement presented to at last begin a substantive conversation on the fuel assurance concept.

G-77 LEADS IN BOARD

16. (U) Argentina led off the debate speaking for the G-77 and NAM. In a break from usual practice, China assured us they would not associate with the statement. The statement reiterated most of the same points made in March and previous boards: the need for caution while addressing thoroughly the associated technical legal and economic aspects as well as the underlying political dimensions; any proposal must be in full accordance with the Statute; concerns about nuclear proliferation must not restrict the rights of States; and rejection of the notion that the pursuit of any technology should be discouraged because of alleged sensitivity.

17. (U) While stating the view that "no decision or recommendation can be made regarding the issue at this stage" the G-77 statement went on to provide some preliminary ideas and concerns about the proposals. This was the first evidence of G-77 engagement and willingness to discuss the issues rather than postpone discussion as premature.

18. (U) One important point was the view that none of the proposals provided a proper assurance of supply of nuclear fuel, dealing only with low enriched uranium. Recipient states' need for a guaranteed

supply of fuel assemblies and fabrication was not addressed by the proposal. The G-77 also expressed its view that it was important to address the supply of natural uranium, both from the point of view of ensuring fuel for the reactors that use natural uranium fuel but also to address the perception that the real aim of the proposal was to restrict and discourage States from developing or expanding national enrichment capabilities rather than providing a viable assurance of supply. The Group also expressed concerns about the reliability of the triggering mechanism, both from the point of view of the supplier misrepresenting the nature of the disruption and of the supplier seeking to block triggering of the mechanism within the Agency. The Group also expressed skepticism about the financial neutrality of the proposals and also about diverting high-level attention from other important activities. The G-77 also objected to the eligibility criteria conditioning access to the fuel to Member States "with respect to which...no specific report relating to safeguards implementation...is under consideration by the Board of Governors."

¶9. (U) With regard to the Fuel Bank proposal, the Group concluded that the document did not present a coherent and comprehensive conceptual framework that can form the basis of a more detailed proposal to be brought to the Board. It also stated that in light of existing policies on accepting voluntary contributions it was premature to authorize the Agency to accept any financial pledges directed to finance the proposed LEU bank. The Group also expressed the view that it did not consider that the document on the Fuel Reserve proposal contained a comprehensive framework that can form the basis for developing draft model agreements. As to the German proposal, the Group expressed the view that an international organization such as the IAEA should not administer a commercial company for the supply of nuclear fuel or enrichment services. Finally, the Group recommended that any decision regarding the implementation of the fuel assurance proposals be taken by consensus by the General Conference.

THE DG RESPONDS

¶10. (U) Following the conclusion of the G-77 Statement, Director General El Baradei took the unusual step of requesting the floor to respond (one of four long rebuttal statements the DG made during the course of the June Board meeting). He emphasized that proposals for fuel supply were under discussion for 60 years and were firmly rooted in the Statute, which had envisioned all supply as coming through the Agency. The issue was whether States believed assurance of fuel supply was needed, citing the cutoff of Iran in 1979 following the Revolution as the sort of situation that might require it. The Director General went on to say that he agreed with almost all of what the G-77 said. He reiterated that the proposal will not touch rights - the right to develop the fuel cycle, the right to conduct research and development or the right to transfer technology.

¶11. (U) The DG went on to agree that a supply of LEU was not sufficient and that this is recognized in the Fuel Bank proposal in a footnote. The Agency needs to work on how to deal with the question of providing fuel assemblies. He also admitted that the G-77 had a good point about needing to look at fuel for natural uranium fueled reactors as well. ElBaradei defended the criteria for the Fuel Bank as being consistent with the Statute, noting that Russia applied other limits. He stated that he hoped other proposals would come forward to ensure that nobody got penalized. He also stated that the triggering mechanism would be managed by the DG and that he hoped his successor would not accede to pressure in how/when it would be applied.

¶12. (U) ElBaradei made a number of comments about financial implications. He noted that Russia would fully finance the Fuel Reserve proposal. He said that he was hopeful of getting the NTI money, but confirmed that he would not accept a contribution until the project was approved by the Board. He also mentioned trying to get the fuel bank in the regular budget. He then indicated that he expected it to be self-financing, even suggesting that the Agency might attach a surcharge to benefit Technical Cooperation.

¶13. (U) The DG emphasized the preliminary nature of the proposals,

his desire for transparency in further development and his welcoming of additional thoughts and proposals. While mentioning the authority of the Board to adopt proposals, he first acknowledged that Board Members might want to send it to the General Conference and seemed to agree with this approach.

SUPPORT FROM THE WEST

¶14. (U) The statement by the G-77 and NAM and the DG's rebuttal was followed by a supportive statement from the European Union. The statement noted that a number of EU members had brought forth proposals and the EU's 25 million euro contribution to the fuel bank. The EU also emphasized the nonproliferation benefits of fuel assurances, while emphasizing that the rights of states would remain undiminished. The EU statement recognized the Russian proposal and stated that it looks forward to hearing more about the initiative from the Secretariat, but did not explicitly endorse the recommended action. The EU supported taking note of the German proposal and stated that it was ready to further consider the potential framework for pursuing the suggested multinational enrichment sanctuary.

¶15. (U) Russia followed with a statement describing its own proposal in detail. While describing the broad range of countries that would be eligible, it also stated its criteria for full scope safeguards and peaceful uses and security guarantees required by Russian law. Russia also emphasized the financial aspects of its proposal, in particular that it would not cost the IAEA anything. Russia concluded by supporting the recommended action for its own proposal.

¶16. (U) Germany followed with a national statement in which it described, at some length, its multinational enrichment sanctuary project and how it saw this project as addressing concerns about rights, the need to control sensitive technology, the absolute assurance of supply provided by plant ownership, the absence of interference in the market, and the question of consistency with the Statute. Germany concluded by stating that it was not seeking an endorsement of its proposal, but an offer to be taken note of.

¶17. Following an intervention from Egypt (more below), the United States delivered its strongly supportive statement (reprinted below) with a note of thanks to the G-77 for identifying several issues for discussion. The United States supported the recommendations on both the Fuel Bank Proposal and the Fuel Reserve proposal. It noted its own unilateral action to create a fuel reserve by downblending high enriched uranium. The U.S. statement recognized the need for any proposal to reflect the rights of suppliers to supply in conformity with its laws and noted provisions in the Russian proposal reflecting that.

¶18. (U) Canada later endorsed the recommended actions for all three proposals, but also raised some issues it felt needed further elaboration. It asked for a clearer estimate of resource implications for the Agency and how these would be covered. It noted that while one state had volunteered to host the fuel bank, there was no process yet identified to address this question. Canada also felt that the eligibility criteria and the type of safeguards agreement required were neither clear nor consistent with respect to the Russian and Agency proposals. It also pointed out the need to clarify what other nonproliferation obligations might attach to the LEU and that the liability requirements differed between the proposals.

¶19. (U) Switzerland took note of all three proposals and articulated aspects that it found attractive in each. It expressed satisfaction that none questioned the rights of States, and said that the mechanisms should deal with disruptions to the supply of the initial core, as well as to reload fuel. Switzerland also expressed concern that supply of LEU was not enough if a country could not fabricate the fuel. Switzerland also wanted the DG to provide more information on the consequences on the human and financial resources of the Agency.

¶20. (U) Japan supported the recommended actions on all three proposals. It also raised some points it thought should be clarified. With respect to the Fuel bank, Japan identified legal and financial conditions and liability as areas that required a

careful look. It also thought particularly important the questions of which country would host the bank, how it would be managed, and the scope of the host's and Agency's legal and financial responsibilities. Japan regarded the Russian proposal to be the most mature and, since it is based on existing facilities and LEU reserves, a good basis for constructive discussions at Board meetings to determine how the mechanism would work and to identify the issues to be further addresses and clarified. Japan also took note of its own proposal "IAEA Standby Arrangements System for the Assurance of Nuclear Fuel Supply" and promised to further elaborate it based on discussions held at the Board meeting, with feedback to the Board in due course.

¶21. (U) In another strongly supportive statement, the UK noted the complementarity of the three proposals before the Board. It took note of the March 2009 London conference on the International Nuclear Fuel Cycle as a valuable forum for discussion of fuel assurances. It also recalled its own Nuclear Fuel Assurance (formerly known as the Enrichment Bond) and confirmed the UK intention to bring forward proposals for consideration by the Board at its next meeting.

The G-77 Speaks: Parts are
More than the Whole

¶22. (U) Thirteen G-77 Board members gave national statements in addition to associating themselves with the G-77 Statement. Most expressed at least some support for continuing work. Only Uruguay's statement reaffirming the right of countries to use nuclear energy in compliance with the provisions of the NPT had nothing to add.

¶23. (U) Egypt thanked the DG for his ideas and indicated that they would contribute to rapprochement within the Board. He noted that the DGs explanation confirmed the need for earlier consultations (which Egypt had previously opposed). Egypt's major concern is that only the Russian proposal makes the NPT a criteria of supply. This devalues the NPT. Egypt believes that proposals to provide fuel to non-NPT parties violated the resolutions of the 1995 NPT Review Conference. IN a back and forth with the Board Chair, Russia then clarified that it did not consider NPT a condition of supply under its proposal leading the Egyptian Ambassador to remark that in that case Egypt disagrees with Russia also. (COMMENT: The Russian proposal does not actually say that NPT adherence is a supply criteria. Russia believes that its criteria, an agreement between a non-nuclear-weapon State and the IAEA requiring safeguards on all peaceful nuclear activities, would allow supply to India, although India was not reassured. However, what is clear is that the Russian proposal would not allow supply to Israel (or Pakistan) which is its most important consideration. END COMMENT)

¶24. (U) Malaysia stated that it was ready to engage in discussions of proposals for nuclear fuel assurances with a view to addressing the technical, legal, financial and political aspects of the issue. It noted that none of the proposals offered the transfer of fuel cycle technology and stated that it would welcome proposals that did.

¶25. (U) The major Brazilian concern was the ability to achieve a credible mechanism for assurance of supply of nuclear fuel without interfering with the international market. Brazil had inquired about situations when a State would actually benefit from these fuel banks/reserves. It made sense to have a reserve that a country could draw from if there was a fire or the supplier went bankrupt. But Brazil said it was told (it was not stated by whom) that the assurances would not apply here. Supply could only take place where the cutoff was for political conditions, and then only if other suppliers were unable to supply. It seemed that the only way for a country to benefit from the reserve was to behave in such a way as to cause all suppliers to adopt formal or informal sanctions against it. And if the country lacks its own fuel fabrication plant, the LEU it gets will be of no avail. The argument that fuel assurances enhanced nonproliferation by discouraging the development of an enrichment capability was not relevant if a country could not benefit from the assurance. He also noted that there had not been a single case of diversion from a safeguarded enrichment facility. While Brazil was willing to be constructive, a mechanism to benefit

states without interfering with the market was needed.

¶26. (U) Mexico expressed direct support for fuel assurance activities and considered the three proposals complementary. Mexico believed that the proposals made allowance for points it considered important - universal participation, ensure access under nonproliferation standards, not hampering research and development - but that there were still questions and it looked forward to more discussions. It felt that it was important for the IAEA to be involved in proposals.

¶27. (U) The Philippines started by associating itself with the G-77 and NAM statement, but then proceeded with a strongly supportive statement with a number of substantive issues it thought needed to be addressed. It explicitly stated its support for a multilateral approach to the nuclear fuel cycle with the IAEA having a central role. It stated the view that the DGs proposal was a step in this direction and that the Russian proposal complemented it. It explicitly supported further consultations to help clarify issues. It noted that "the points raised today should be taken into account in the detailed proposal that the Director General will prepare" which was an explicit recognition that the process was moving forward. It identified a number of areas for further work: long-term financing for the Fuel Bank that reflects its voluntary and optional nature and ensures economic sustainability and commercial competitiveness; triggering conditions; the undertakings of States that would participate; process and modalities of selection of a host state, the form and content of legal instruments; any needed institutional arrangements at the State and international levels; and ways of securing the physical security of multilateral facilities. It also wished to ensure that the resulting mechanism should lead to equal access to fuel and not lead to monopolistic control by a State or group of States over nuclear fuel supply.

¶28. (U) In its national statement, Argentina indicated that it rejected the notion that parts of the fuel cycle were sensitive, that it should be possible for a country to be both a supplier and recipient and that it questioned the term "current market prices." In looking at the DGs proposal, it did not find sufficient clarity on liability and responsibility for the fuel, safeguards, physical protection, third party shipments, the rights of States, and the role of the Board in authorizing supply. Argentina also had questions about shipment standards and transit conditions for the Russian proposal. On the German proposal, Argentina explicitly stated that it did not share the view of the risk of proliferation.

It also stated that it was not clear how the company might establish and maintain a buffer stock available to the DG to cover an interruption of supply.

¶29. (U) Among the G-77 States, Cuba took a national position most closely mirroring the group position. But in calling for a full study of the costs and benefits of the proposals, it acknowledged the superiority of the Russian proposal in accounting for all costs, and it seemed to prefer the Russian proposal generally. Cuba also wanted the proposals to promote fuel fabrication technology.

¶30. (U) Iraq thanked the DG for his proposal and explanations and his efforts to find options. It felt the proposals met needs without compromising rights. It stated that establishing fuel assurance programs will help States hasten the development of nuclear power programs with confidence that they can obtain fuel and such assurances enhanced the NPT regime.

¶31. (U) In a surprisingly positive statement, South Africa thanked the DG and Secretariat for its thought-provoking proposal and welcomed the proposals of other States. It noted that credible mechanisms for reliable supply of nuclear fuel should involve the IAEA and welcomed further discussion. It welcomed the move away from giving up rights and fully supported the statement by President Obama (quoted by the U.S. delegation) on maintaining rights. South Africa stated that States should have reliable supply at reasonable cost and that the IAEA had the obligation to assist underdeveloped states. South Africa acknowledged that the availability of supply may convince States not to pursue enrichment but should not impose unwarranted restrictions and must respect the rights of States.

¶32. (U) Ghana's statement almost repudiated the G-77 statement in key respects. It never mentioned associating itself with that statement, only expressed appreciation for the DGs clarifications. It recognized fuel assurances as an alternative to expansion of enrichment and reprocessing. It stated that it had no intention to be involved in enrichment and reprocessing and found it useful to have a fuel bank. Ghana observed that the proposals did not deal with the return of spent fuel or the supply of uranium hexafluoride to Member States to fabricate fuel (a confusing observation since that is exactly what is supplied). Ghana stated that the proposals could benefit from further discussion.

CHINA AND INDIA

¶33. (SBU) China and India were noteworthy in this discussion for different, and opposite, reasons. China did not associate itself with the statement of the G-77 and the NAM, which is highly unusual and usually only occurs when it is protecting its political/nuclear weapons State status. China encouraged the Board of Governors to seriously discuss the issue of assurances of supply. It expressed the hope that the establishment of the relevant mechanism will help promote the peaceful use of nuclear energy and effectively prevent nuclear proliferation. It also took note of relevant concerns. China stated its view that in establishing a fuel assurance mechanism, it was necessary to appropriately deal with the relationship between non-proliferation and peaceful use of nuclear energy to make sure that it is handled equitably, free from discrimination and respecting countries' rights to make their own decisions in line with their own conditions. It expressed the hope that by incorporating different views, the DG and the relevant countries will submit better proposals in order for the Board to seek a specific solution that can be universally accepted. (COMMENT: Throughout the week, it was unclear just how China was going to come down on this issue. While reaffirming its willingness to enter into an open and constructive exchange of views, it also seemed to be huddling frequently with G-77 and NAM members. U.S. Delegations speculates, based on an examination of the Chinese statement and the text of the G-77 statement, that the split between them was due to China's willingness to accept that there was a nonproliferation issue associated with sensitive technologies and that fuel assurances, properly constructed, could be part of a solution. END COMMENT)

¶34. (U) India, on the other hand, wanted to step back from any specific proposals and discuss a more general "consensus on certain basic principles and norms." It suggested that an understanding might be reached that: recognized the inalienable right of all Member States to develop all aspects of nuclear technology and that nothing in any proposal would ever be construed as a restriction on the sovereign right to develop and run national fuel cycle capabilities; reaffirmed that all Member States with relevant fuel cycle capabilities would have the right to participate in all proposals as a supplier; and clarified that no elements would be introduced that discriminated between Member States or brought in extraneous conditions not in the Statute. It closed by reiterating the need for a cautious approach.

Rule 50 - More Positive
than Negative

¶35. (U) Kazakhstan, in a long statement supporting both the DGs proposal and the Russian proposal and calling the German proposal "interesting and deserving attention" called attention to the declaration of the Head of State of Kazakhstan that in case of an establishment of an IAEA nuclear fuel bank, Kazakhstan could consider hosting it on its territory. The Republic of Korea stated that the time was ripe for a fuel bank and that it supported the recommended action. It also expressed its hope for more discussion of the back end of the fuel cycle. Norway expressed its support for all recommended actions and noted its contribution to the Fuel Bank. Jordan stated its commitment to launching a nuclear power program and believed it was appropriate to engage in discussions on fuel assurance proposals.

136. (U) Austria, while restating its own views against nuclear power, also indicated its understanding of others' desire for it and recognized the need to obtain nuclear fuel in an assured and predictable manner. It recalled its own proposal entitled "Multilateralisation of the Nuclear Fuel Cycle: Increasing Transparency and Sustainable Security, which it proceeded to describe. Key features include establishment of a new IAEA information system that would provide a fully comprehensive picture of the global nuclear industry, including each States capabilities, activities, and national and trans-national transactions at each stage of the fuel cycle; the IAEA gradually assuming the role of virtual broker for all transactions involving nuclear materials and fuel cycle services; and finally transformation existing fuel cycle facilities into new forms of regional and multilateral ownership.

137. (U) Libya was less positive, noting that the DGs proposals needed more clarification in a manner that is open and transparent and that more discussion and further consultations were needed. Libya also stated that assurance of supply was needed for supply of nuclear items.

138. (U) Iran provided the most negative speech of the day. It pointed out that the issue had been discussed for the last 30 years but that there was still an absence of trust. It was of the view that any multilateral proposal for fuel assurances will impinge on states' rights. Iran felt it was premature to consider the subject until the question of rights was answered. It also stated that any criteria beyond the Statute was bound to fail, noting the failure of the Committee on Assurance of Supply. Iran also supported the need for any decision to be taken by the General Conference. Iran closed by noting that any donations and financial assistance has consequences, implying that those giving the money will want something from the Agency in return.

CHAIR'S CONCLUSIONS

139. (SBU) The Chair proposed a lengthy summing up, ending with the sense that the Board may continue with its consultations and discussions on the proposals by the Director General and the Russian Federation, and the Secretariat will assist in further elaborating a conceptual framework that could form the basis for developing detailed proposals that would adequately address the views and concerns of Member States. The only placard raised was India, which made multiple interventions. India said complained that the Chair appeared to be approving the recommendation even though delegations had said they were, "not in a position to approve." The Indian Ambassador added that there must be more consultation before proceeding, to which the Chair replied by re-reading the final summary paragraph. India reiterated that the findings were "not in accordance" with the sentiment India had observed. The Chair acknowledged that member states had called for review of the concept's political, legal, technical, financial, and strategic implications, and that she thought the summary captured those concerns well. India for a third time intervened to say they did not, and that it "was not ready to proceed on the recommended action," a sentiment which it thought many member states shared. The Chair reiterated that her findings did not urge the Director General to produce a detailed report on the concept. Rather, the findings took note of issues the Secretariat must clarify. India protested once more, and the Chair asked India to propose alternative language, at which point, meeting with silence from India, the Chair called on Argentina. Argentina noted that it did not want any specific action taken on the proposals the Board considered, but reiterated its openness to "all kinds of further proposals and negotiations." The Chair repeated that the Chair's findings did not require action on the assurance of supply proposals. Germany intervened to note its dissatisfaction with the summary, which it felt did not properly mention its MESP and had a lengthy exchange with the chair which did not result in any change to the conclusion.

Iran intervened to note that the core issue of the summary's concluding language was that it called for "discussion," not "consultation," and that if the Chair replaced the former with the latter in her summary, the problem would be solved. (Comment: The clear intent of the Iranian intervention was that eliminating the reference to discussions in the Board would keep the issue off the agenda.) The Chair read the revised concluding language, replacing

discussions with "informal discussions." India relented. However, the UK objected to this change stating that it had found the Board debate very helpful and that it wanted discussions at the Board, consultations outside the Board, and any other activity that works to elaborate, clarify and address issues. Russia seconded the UK proposal and the Chair assented, without further objection from the room. (The full text of the Chair's Conclusion is at para 43.)

COMMENT

¶40. (SBU) Despite Iran's short-term success in spinning the press to believe that the Board outcome was a defeat for the West, the outcome was positive, met the U.S. objective of enabling further development of the proposals, and laid the groundwork for long-term adoption of one or more of them. Russian Ambassador Berdenkov, who had been very worried early in the week, walked away satisfied and appreciative of U.S. efforts. The G-77 has begun to engage on the issue. And a number of G-77 countries were willing to go on record in support of the concept. The round of demarches before the Board had the desired effect and UNVIE appreciates this capital level engagement. Specific issues were identified for further discussion. This clearly validated the wisdom of bringing proposals to the Board for discussion, even in the absence of definitive action on those proposals. The Secretariat believes it has the mandate it needs for continued work.

¶41. (SBU) But there is still a long road ahead. Final proposals or resolving all issues before the September Board meeting, or even this year, will be difficult, and the upcoming transition of the Director General will complicate this as well. The supply criteria issue remains critical, with Egypt demanding NPT adherence, India and the Director General calling for "Statutory criteria" and others seeking non-discrimination, but without articulating what form that would take. As several states observed, it will probably be necessary to think further about what situations involving supply interruption the fuel bank/reserve proposals should address. The combination of the failure of a supplier to be able to supply according to a pre-existing contract, for whatever reason, and the failure of the market to be able to step in to provide replacement supply, for whatever reason, creates an absence of assurance that may be entirely unrelated to the actions of the recipient State. Is the Director General's reference to Iran being cut off from supply after the Revolution and the seizure of the U.S. Embassy the real "problem" we want to fix? Many of the other issues look difficult as well, in particular the need to ensure not only the supply of enriched uranium but the supply of fuel fabrication services.

¶42. (U) Nevertheless, having engaged the G-77 in identifying the issues, we can now engage them selectively, including Argentina, Brazil, Egypt, Mexico, the Philippines and South Africa in a dialogue to address their concerns. India will need to be handled separately, in the context of our civil-nuclear relationship. In the end, many states are likely to agree with us on the supply criteria - full scope safeguards, adequate physical protection, liability protections - that are necessary for the fuel assurance proposals to go forward. We should also begin consulting in more detail on how our own fuel reserve (which will be bigger than the Russian fuel reserve and the IAEA Fuel Bank combined) can be deployed.

TEXT - Chairperson's
Conclusion

¶43. (U) Begin Text.

I have no more speakers on my list. All comments made and views expressed will be reflected in the summary record of this meeting. Therefore, I do not intend to sum up in detail.

Several members welcomed the initiative to create a LEU bank under the auspices of the Agency which would serve as a last resort for Member States in the event that their supplies were disrupted for reasons not related to technical or commercial considerations. In

this regard, they expressed appreciation to the Director General and the Secretariat for the proposal contained in document GOV/2009/30, entitled "Proposal for the Establishment of an IAEA Low Enriched Uranium (LEU) Bank" and welcomed the financial pledges towards this project.

Several members took note of the offer by Kazakhstan to consider hosting the IAEA LEU bank on its territory.

Several members expressed the view that there was a need for caution when addressing the different aspects associated with the issue of the assurances of nuclear fuel supply, and that any proposal in this regard should be in full accordance with the Statute and take into consideration the respective legal rights and obligations of Member States and the principle of non-discrimination.

Several members emphasized that any proposal for the assurances of supply should not discourage Member States from developing or expanding their own nuclear fuel cycle capabilities and should not hamper research, development and international cooperation in the field of peaceful nuclear activities. They reiterated in this regard the inalienable right of all States to develop all aspects of nuclear science and technology for peaceful purposes.

Several members encouraged the Agency to continue pursuing the proposals on fuel assurances and noted that the rights of Member States with regard to the establishment or expansion of their own nuclear fuel cycle capabilities would remain undiminished by the establishment of multilateral fuel supply mechanisms which would instead offer additional options for the supply of nuclear fuel.

Several members expressed the view that none of the proposals before the Board provided a proper assurance of supply of nuclear fuel, since it simply created a back up mechanism to provide LEU when the supply of fuel is disrupted for political reasons but did not provide assurances of fuel fabrication services.

Several members raised diverse technical, financial, political and legal queries on issues such as the proposition that the development of an enrichment capability posed a proliferation risk, the reliability or credibility of the triggering mechanism, the eligibility criteria, the supply of natural uranium as fuel, and the financial implications of the proposals.

Several members expressed the view that any decision regarding the implementation of the proposals should be taken by consensus by the General Conference.

Several members expressed the view that the proposal as contained in document GOV/2009/30 could not be a basis for a more detailed proposal for an IAEA LEU bank to be brought forward for the Board's consideration. They also expressed the view that it was premature to authorize the Agency to accept any financial pledges directed to finance the proposed LEU bank.

Several other members welcomed the proposal for an IAEA LEU bank and encouraged the Secretariat to continue its work to develop an IAEA LEU bank for assurance of supply and welcomed the financial pledges made by some Member States for this purpose.

With regard to the proposal contained in document GOV/2009/31, entitled "Russian Federation Initiative to Establish a Reserve of Low Enriched Uranium (LEU) for the Supply of LEU to the IAEA for its Member States", several members noted the Russian initiative to establish a reserve of low enriched uranium for supply to the IAEA Member States in Angarsk. They looked forward to hearing further details from the Secretariat about the initiative in due course.

Several other members expressed the view that the proposal put forward by the Russian Federation might entail less financial burdens, as far as the Agency was concerned, than the proposal for an IAEA LEU bank. However, they were of the view that the document did not contain a comprehensive conceptual framework that could form a basis for developing a draft model agreement that could be approved by the Board.

With regard to the proposal of Germany, contained in document GOV/2009/32, entitled "Establishing an Independent Access to Nuclear Fuel Cycle Services: The Multilateral Enrichment Sanctuary Project

(MESP)", several members expressed their readiness to further consider the potential framework for pursuing the suggested multilateral enrichment sanctuary. They looked forward to an extensive and detailed discussion of the issue with a view to promoting a multilateral LEU supply mechanism compatible with the existing market and with the proposed IAEA and Russian LEU reserves.

Several other members expressed the view that the Agency should not administer a commercial company for the supply of nuclear fuel or enrichment services.

The Board noted the Director General's comments on issues raised, which will also be reflected in the summary records of our discussion.

Based on the discussion, the sense that I get from listening to the various speakers is that the Board may continue with its consultations and discussions on the proposals by the Director General and the Russian Federation and the Secretariat will assist in further elaborating a conceptual framework that could form the basis for developing detailed proposals that would adequately address the views and concerns of Member States.

Is this summing-up acceptable?

It is so agreed.

End Text.

U.S. STATEMENT

¶42. (U) Begin Text.

Madam Chair,

As part of his Prague speech, President Obama called for the creation of "a new framework for civil nuclear cooperation" so that countries, and especially developing countries, can access peaceful power without increasing the risks of proliferation. In support of this new approach, our delegation has emphasized the desirability of establishing a revived "Spirit of Vienna". We believe that the establishment of one or more international fuel banks, under IAEA auspices, will be an important element of this new framework.

Over the last few years, many proposals have been put forward to establish fuel banks or other mechanisms to ensure reliable access to reactor fuel. Such mechanisms would increase access to peaceful nuclear energy, by providing States that are acquiring nuclear energy with access to reactor fuel, as a backup to the international market. These mechanisms could provide an alternative to expensive enrichment and reprocessing technologies, which pose proliferation risks. We believe that the time has come for an open discussion within the Board, and among Member States more broadly, of technical, legal and financial aspects of these proposals. We thank the Group of 77 for identifying several issues for discussion in its statement under this agenda item, and we look forward to engaging in an intense and productive dialogue.

The papers prepared by the Secretariat on the Director General's proposal for the establishment of an IAEA LEU bank and on the Russian Federation's initiative to establish an LEU reserve for supply to the IAEA each provide a sound basis for these discussions, and we thank the Secretariat for the work that went into preparing them. We support the proposal that the Board request the Director General to submit detailed proposals for the Board's subsequent consideration. We would advocate efforts to bring draft texts of the agreements called for by these papers to the Board by September.

I would note that the United States has already taken practical measures to make reliable access to nuclear fuel a reality. Our Congress authorized almost \$50 million to help match the Nuclear Threat Initiative's challenge grant to create a nuclear fuel reserve for the IAEA. We also welcome pledged contributions from the European Union, Kuwait, Norway and the United Arab Emirates. In March, 2008, the United States started

down-blending 17.4 metric tons of highly enriched uranium for a nuclear fuel reserve in the United States. This work should be completed by 2010.

During discussion of the various proposals before the Board, we should keep in mind that the purpose of these proposals is to expand, not to restrict, access to the peaceful use of nuclear energy. President Obama declared in Prague that no approach to nonproliferation "will succeed if it is based on the denial of rights to nations that play by the rules," He also reaffirmed that access to peaceful nuclear power "must be the right of every nation that renounces nuclear weapons, especially developing countries." The discussion papers on the Director General's proposal and the Russian proposal both clearly explain that the rights of Member States, including establishing or expanding their own production capacity in the nuclear fuel cycle, would remain intact and not be contravened, infringed, or diminished by these proposals.

Of course the rights and obligations of Member States donating LEU to a fuel bank must also be respected. In this regard we note that Article IX C of the Statute contemplates that a Member State's donation of nuclear material to the Agency will be "in conformity with its laws." We also note that the Secretariat's paper on the Russian proposal appears to include provisions aimed at compliance with the laws of the Russian Federation on export of nuclear material.

In 2006, the Nuclear Threat Initiative, a nongovernmental organization, offered the Agency \$50 million to establish a fuel bank under IAEA auspices, on the condition that \$100 million be raised from other donors, and that the Board adopt a mechanism for administering the fuel bank. The first of these conditions has been met, and the Secretariat's paper on the Director General's proposal for the establishment of an IAEA LEU bank is an important step towards meeting the second. Approval by the Board of a model agreement and other details would meet the second condition for the Nuclear Threat Initiative's grant. In developing the agreement text and other details for consideration by the Board, we look forward to consultations among the donors to the Nuclear Threat Initiative challenge, among other Board members, other suppliers, and potential beneficiary states. We believe such consultations, among Member States and with the Secretariat, to be essential and that they need to be undertaken at an early date for the Board to ultimately take action.

Madam Chair,

In keeping with the Board's authority under Article XI of the Statute, these proposals deserve the Board's continued active consideration, informed by expert views from the Secretariat and all Member States that wish to contribute to our deliberations.

We are very close to success in establishing two mechanisms that will help to realize the full economic potential and environmental contribution of peaceful nuclear energy. We look forward to working with the Secretariat and Member States in developing, in particular, the Director General's detailed proposal for an LEU reserve for the Board's approval.

Thank you.

END TEXT

PYATT